

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CRIMINAL #04-10288-RWZ

UNITED STATES

v.

JOSEPH ALLEN

DEFENDANT'S MOTION TO REVOKE DETENTION ORDER

Joseph Allen, defendant in the above-captioned criminal case, hereby moves this Court, pursuant to 18 U.S.C. § 3145(b), to revoke the order of detention entered by the Court (Swartwood, M.J.) on October 5, 2005 (Dkt. 248). As grounds therefore, defendant avers as follows:

1. As the magistrate judge correctly found, Mr. Allen, a lifelong resident of the community, is not a risk of flight.
2. Mr. Allen had been on pretrial release from August 2004 through September 2005. With the exception of a positive drug test (and admitting to drug use) in July 2005 and leaving his drug treatment program without permission in September 2005 (under mitigating circumstances), he complied fully with his conditions of release.
3. The revocation of Allen's bail did not stem from any alleged violation of state or federal law.
4. Mr. Allen is not alleged to have been a danger to any other person or to the community during his time on pretrial release, and conditions can be fashioned that

would reasonably assure his appearance as required and the safety of the community.

5. The evidence against defendant Allen in this case is so weak that the magistrate judge who found probable cause characterized it as “less than substantial.” Trial is currently scheduled for April 2006, some five months away. Allen’s longtime girlfriend, Alicia Parisi, is due to give birth to the couple’s second child in mid-November. Under the circumstances, subjecting Allen to a protracted loss of liberty while awaiting trial would be particularly unfair.

The grounds for the instant motion are set forth more fully in the accompanying memorandum of law.

Respectfully submitted,

JOSEPH ALLEN

By his attorney,

/s/ James L. Sultan
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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the government by e-mailing it to AUSA David Tobin at David.Tobin@usdoj.gov and to Pretrial Services officer Judith Oxford at Judth.Oxford@map.uscourts.gov on October 31, 2005.

/s/ James L. Sultan
James L. Sultan